

Honorable Judge Tana Lin

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MIRANDA ALLEN an individual; and
J.M., a minor child, by and through his
parent, MIRANDA ALLEN,

Plaintiffs,

vs.

MARTIN BARRATT and J. DOE
BARRATT, husband and spouse and
marital community composed thereof,

Defendants.

Case No: 2:23-CV-00474-TL

AGREED PRETRIAL ORDER

- LCR 16.1

AGREED PRETRIAL ORDER
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I – FEDERAL JURISDICTION

Defendants removed this matter from Skagit County Superior Court in March of 2023, alleging the basis of diversity of citizenship under 28 USC § 1332(a)(1).

II – CLAIMS AND DEFENSES

The Plaintiff will pursue at trial the following claims:

Liability has been established in this matter. Plaintiff intends to seek damages for substantial and permanent injuries; past and future suffering, pain, mental anguish and loss of enjoyment of life; past and future medical expenses; loss of past and future earnings; loss of earning capacity; lost market services and other economic damages.

The Defendant will pursue the following affirmative defenses:

Defendant reserves the right to introduce evidence to establish plaintiff failed to mitigate her damages.

III – ADMITTED FACTS

The following facts are admitted by the parties:

01. Plaintiff Miranda Allen is a resident of Whatcom County, Washington.

02. Minor Plaintiff J.M. has no remaining claims in this matter, as his claims have been resolved.

03. Defendants Martin Barratt and J. Doe Barratt are residents of California.

04. On June 16, 2019, Miranda Allen was stopped for traffic, northbound on I-5 in Skagit County, Washington.

05. On June 16, 2019, Defendant Martin Barratt was traveling northbound on I-5, directly behind Plaintiff.

06. Defendant Martin Barratt failed to stop for traffic, crashed into the rear of Plaintiff's vehicle and caused Plaintiff's vehicle to crash into the vehicle directly in front of her.

1 07. Martin Barratt's negligence has been admitted, and Martin Barratt is
2 responsible for the injuries and damages caused by the subject collision.

3 08. No other person or entity has caused damage to Plaintiff or contributed to
4 the negligence of Defendant in this matter.

5 09. Plaintiff's vehicle was totaled as a result of the collision.

6 10. Plaintiffs Miranda Allen and her minor son J.M. were injured in the
7 collision.

8 11. At the time of the June 2019 collision, Ms. Allen had no pre-existing
9 conditions which were ongoing or symptomatic.

10 12. As a result of the June 2019 collision, Ms. Allen sustained post-traumatic
11 headaches.

12 13. As a result of the June 2019 collision, Ms. Allen sustained a mild traumatic
13 brain injury.

14 14. As a result of the June 2019 collision, Ms. Allen sustained post-concussion
15 syndrome.

16 15. As a result of the June 2019 collision, Ms. Allen sustained a cervical
17 sprain/strain.

18 16. As a result of the June 2019 collision, Ms. Allen sustained a right shoulder
19 sprain/strain.

20 17. As a result of the June 2019 collision, collision, Ms. Allen sustained a
21 lumbar sprain/strain.

22 18. As a result of the June 2019 collision, collision, Ms. Allen sustained
23 increased anxiety.

24 19. As a result of the June 2019 collision, Miranda Allen sustained an inferior
25 glenoid ligament shoulder tear.

20. As a result of the June 2019 collision, Miranda Allen sustained a wrist/hand sprain.

21. As a result of the June 2019 collision, Miranda Allen sustained a severe thoracic sprain.

22. Due to the injuries sustained in the June 2019 collision, Miranda Allen treated with Sather Chiropractic Center, Bellingham Family Medicine, Mount Baker Imaging, PeaceHealth and Pacific Rim Orthopedic Surgeons.

IV – ISSUES OF LAW

The following are the issues of law to be determined by the court: None.

V – EXPERT WITNESSES

A. Plaintiff's Expert Witnesses.

The Plaintiff will call the follow expert witnesses:

01. Robert Baker, DC (Will Testify)
Baker Chiropractic and Massage
2222 James St., Ste. C
Bellingham, WA 98225

Dr. Baker performed a record review and Independent Medical Examination of Plaintiff Miranda Allen on February 21, 2020. Dr. Baker is expected to testify consistent with his report dated February 21, 2020, previously produced.

Dr. Baker's testimony is expected to include the reasonableness of treatment and billing, opinions on future care as of February 2020, and impairment and injury causation, found in his report previously provided to Defendants. The records upon which Dr. Baker bases his opinions and conclusions are outlined in his report, all of which have been provided to Defendants.

02. Sanford Wright, MD (Will Testify)
Expert Witness and Forensic Consultants
2320 Rucker Ave.
Everett, WA 98201

1 Dr. Wright performed a record review and Independent Medical Examination of
 2 Plaintiff Miranda Allen on September 25, 2023. Dr. Wright is expected to testify consistent
 3 with his report dated September 29, 2023, previously provided.

4 Dr. Wright's testimony is expected to include the reasonableness of treatment and
 5 billing, opinion(s) on restrictions, limitations, impairment and injury causation, which can
 6 be found in his report, previously provided to Defendants.

7 03. Virtaj Singh, MD (Will Testify)
 8 Physical Medicine & Rehabilitation
 9 Puget Sound Spine & Sports Medicine, PLLC
 10 1700 Westlake Avenue N, Suite 400
 11 Seattle, WA 98109

12 Dr. Singh performed a record review and Independent Medical Examination of
 13 Plaintiff Miranda Allen on October 9, 2024. Dr. Singh is expected to testify consistent with
 14 his report dated October 9, 2024, and his Addendum dated October 30, 2024, previously
 15 provided.

16 Dr. Singh's testimony is expected to include the reasonableness of treatment and
 17 billing, opinion(s) on restrictions, limitations, impairment and injury causation, which can
 18 be found in his reports previously provided. The records upon which Dr. Singh bases his
 19 opinions and conclusions are outlined in his reports, all of which have been provided to
 20 Defendants.

21 04. John Fountaine, M.A., C.R.C., C.C.M (Will Testify)
 22 Fountaine Consulting Services, LLC
 23 15418 NE 195th Street
 24 Woodinville, WA 98072

25 Mr. Fountaine is expected to testify consistent with his report, dated November 11,
 2024, regarding Plaintiff's work capacity, job skills and/or future work outlook. Mr.
 Fountaine will also testify with regard to lost wages and/or past and future lost earnings
 based upon his findings.

Mr. Fountaine is expected to testify consistent with his report, previously provided
 to Defendants. Mr. Fountaine's testimony is expected to include his opinion(s) on
 restrictions, limitations, impairment, future outlook and relevant job data with regard to
 Plaintiff Miranda Allen, consistent with his report previously provided. The records upon
 which Mr. Fountaine bases his opinions and conclusions were outlined in his report, all of
 which have been provided to Defendants.

1 **B. Defendant's Expert Witnesses.**

2 The Defendant will call the follow expert witnesses:

3 01. Michael Hatzakis, Jr., M.D.
4 4140 Factoria Blvd. SE, Suite A
5 Bellevue, WA 98006
6 (425) 389-4200

7 Dr. Michael Hatzakis, Jr. is board certified in physical medicine and rehabilitation
8 and is licensed to practice medicine in Washington. He reviewed plaintiff's medical
9 records along with associated case materials. He will offer testimony regarding plaintiff's
10 claimed injuries, etiology and cause of complaints, treatment, necessity for future
11 treatment, medical causation, and work capacity. This testimony will be consistent with
his initial report dated November 13, 2023, addendum dated December 18, 2023, and
addendum dated November 22, 2024. He may also testify in response to Plaintiff's fact
and/or expert witnesses.

12 **VI – ADDITIONAL WITNESSES**

13 The names and addresses of witnesses, other than experts, to be used by each party
14 at the time of trial and the general nature of the testimony of each are:

15 **A. Plaintiff's Additional Witnesses.**

16 01. Plaintiff Miranda Allen (Will Testify)
17 c/o Shepherd and Allen
18 2011 Young Street, Suite 202
Bellingham, WA 98225

19 Ms. Allen is a Plaintiff herein, and is expected to testify regarding the injuries she
20 sustained in the collision, and the effect of those injuries on her life. She will also testify
21 as to her past and ongoing symptoms, limitations and ways her life has been impacted,
22 including but not limited to pain and suffering, loss of enjoyment of life, lost wages and
lost earning capacity.

23 02. Rachel Montoya (Will Testify)
24 2323 H St.
25 Bellingham, WA 98225

1 Rachel Montoya is Plaintiff's mother. She has knowledge of Plaintiff's injuries and
 2 their effect on Ms. Allen's life. Ms. Montoya is expected to testify as to Plaintiff's
 3 condition prior to the June 2019 collision, and the impact said collision has had upon Ms.
 4 Allen. She is further expected to testify regarding her observations of pain and limitations,
 5 as well as her knowledge of Plaintiff's past and future earning capacity.

6 03. David Robinson (Will Testify)
 7 c/o Robinson & Kole
 8 911 Dupont Street
 9 Bellingham, WA 98225

10 David Robinson is Miranda Allen's employer. He has direct knowledge of
 11 accommodations made at work, as well as knowledge of work missed due to appointments,
 12 migraines and pain, and their impact on Ms. Allen's work and life.

13 04. Matthew Martucci (Will Testify)
 14 c/o Robinson & Kole
 15 911 Dupont Street
 16 Bellingham, WA 98225

17 Matthew Martucci is an attorney in the office where Ms. Allen is employed. He
 18 has direct knowledge of accommodations made at work, as well as knowledge of work
 19 missed due to appointments, migraines and pain, and their impact on Ms. Allen's work and
 20 life.

21 05. Christopher Van Hofwegen, MD (May Testify)
 22 Proliance Surgeons – Pacific Rim Orthopaedic Surgeons
 23 2979 Squalicum Parkway, Suite 203
 24 Bellingham, WA 98225

25 Dr. Van Hofwegen evaluated plaintiff Miranda Allen with regard to her right
 shoulder pain, performed shoulder surgery on Ms. Allen, and provided follow up care and
 evaluation. Dr. Van Hofwegen may testify regarding Ms. Allen's injuries and treatment
 resulting from the June 18, 2019, collision. Dr. Van Hofwegen may testify on the
 reasonableness of treatment and degree of injury, based upon his observations and
 treatment of Ms. Allen during the course of care.

06. Matthew Oswin, DO (May Testify)
 PeaceHealth
 1115 SE 164th Ave.
 Vancouver, WA 98683

Matthew Oswin, DO, evaluated plaintiff Miranda Allen's with regard to her right shoulder pain. Dr. Oswin may testify regarding Ms. Allen's injuries and treatment resulting from the June 18, 2019, collision. Dr. Oswin may testify on the reasonableness of treatment and degree of injury, based upon his observations and treatment of Ms. Allen during the course of care.

07. James R. Beieler, DO (May Testify)
PeaceHealth
4545 Cordata Pkwy #26
Bellingham, WA 98225

Dr. Beieler is plaintiff Miranda Allen's primary care provider. Ms. Allen established care with Dr. Beieler following Dr. Nuetzmann's retirement. Dr. Beieler may testify regarding Ms. Allen's injuries and treatment resulting from the June 18, 2019, collision. Dr. Beieler may testify with regard to the reasonableness of treatment to date, prognosis, and need for future treatment based upon his observations and treatment of Ms. Allen during the course of care. He is expected to testify consistent with his records, as outlined in Plaintiff's prior disclosure of witnesses.

B. Defendants' Additional Witnesses.

01. Defendant Martin Barratt
c/o Kimberly Reppart
Forsberg & Umlauf, P.S.
401 Union Street, Ste 1400
Seattle, WA 98101
Phone: (206) 689-8500

Martin Barratt is the defendant in this matter. He **will be** called to testify as to the facts and circumstances of the collision on June 18, 2019, along with any other facts or circumstances which are or may become relevant to this litigation.

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VI – LIST OF EXHIBITS (Except Impeachment Exhibits)

PLAINTIFF'S PROPOSED EXHIBITS

<u>Ex. #.</u>	<u>Description</u>	<u>Authenticity</u>	<u>Admissibility</u>	<u>Objection</u>	<u>Admitted</u>
P1	05-25-2022 Complaint for Personal Injury		X	ER 401, 402, 403, Pleadings are not evidence	
P2	06-18-2019 Washington State Patrol Police Traffic Collision Report		X	ER 401, 402, 403, 801, 802, 805	
P3	06-18-2019 WSP Exchange of Information		X	ER 401, 402, 403, 801, 802, 805	
P4	WSP Radio Traffic R009434		X	ER 401, 402, 403, 801, 802, 805	
P5	WSP Telephone Traffic R009434		X	ER 401, 402, 403, 801, 802, 805	
P6	06-18-2019 WSP Citation		X	ER 401, 402, 403, 801, 802, 805	
P7	WSP Collision Investigation Allen Statement		X	ER 401, 402, 403, 801, 802, 805	
P8	WSP Collision Investigation Barratt Statement		X	ER 401, 402, 403, 801, 802, 805	

P9	WSP Collision Investigation Swartz Statement		X	ER 401, 402, 403, 801, 802, 805	
P10	Medical Expense Summary		X	ER 401, 402, 403, 801, 802, 805, 1006	
P11	Collision and Vehicle Photographs				
P12	Medical Records – PeaceHealth				
P13	Medical Records – Mount Baker Imaging				
P14	Medical Records – Pacific Rim Orthopedic				
P15	Medical Records – Bellingham Family Medicine				
P16	Medical Records – Sather Chiropractic and Massage				
P17	Billing Records – PeaceHealth				
P18	Billing Records – Mount Baker Imaging				
P19	Billing Records – Pacific Rim Orthopedic				
P20	Billing Records – Bellingham Family Medicine				
P21	Billing Records – Sather Chiropractic and Massage				
P22	February 21, 2020, IME Report of Dr. Robert Baker		X	ER 401, 402, 403, 801, 802, 805	

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P23	CV of Dr. Robert Baker		X	ER 401, 402, 403, 801, 802, 805	
P24	September 25, 2023, IME Report of Dr. Sanford Wright		X	ER 401, 402, 403, 801, 802, 805	
P25	CV of Dr. Sanford Wright		X	ER 401, 402, 403, 801, 802, 805	
P26	October 9, 2024, IME Report of Dr. Virtaj Singh		X	ER 401, 402, 403, 801, 802, 805	
P27	CV of Dr. Virtaj Singh		X	ER 401, 402, 403, 801, 802, 805	
P28	October 30, 2024, Addendum Report of Dr. Singh		X	ER 401, 402, 403, 801, 802, 805	
P29	November 11, 2024, Report of John Fountaine		X	ER 401, 402, 403, 801, 802, 805	
P30	CV of John Fountaine		X	ER 401, 402, 403, 801, 802, 805	
P31	06-25-2019 Grand Central Collision Estimate of Record		X	ER 401, 402, 403, 801, 802, 805	

DEFENDANT'S PROPOSED EXHIBITS

<u>Ex. #.</u>	<u>Description</u>	<u>Authenticity</u>	<u>Admissibility</u>	<u>Objection</u>	<u>Admitted</u>
D1	Form W-2, 2022 and 2023				X
D2	Collision Photographs				X

The parties reserve the right to mark any exhibits not identified above for impeachment purposes.

The parties intend to present exhibits to the jury in electronic format.

VII – ACTION BY THE COURT

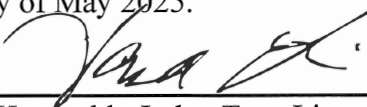
(a) This case is scheduled for trial before a jury on June 2, 2025, at 9:00 a.m.

(b) Trial briefs shall be submitted to the court on or before May 16, 2025.

(c) Jury instructions requested by either party shall be submitted to the court on or before May 16, 2025. Suggested questions of either party to be asked of the jury by the court on voir dire shall be submitted to the court on or before May 16, 2025.

(d) This order has been approved by the parties as evidenced by the signatures of their counsel. This order shall control the subsequent course of the action unless modified by a subsequent order. This order shall not be amended except by order of the court pursuant to agreement of the parties or to prevent manifest injustice.

Entered this 22nd day of May 2025.



Honorable Judge Tana Lin

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1 Presented By:
2 SHEPHERD and ALLEN

3 
4 Heather C. Shepherd, WSBA #51127
5 Of Attorneys for Plaintiff

6 Presented By:
7 FORSBERG & UMLAUF

8 
9 Kimberly Reppart, WSBA #30643
10 Of Attorneys for Defendants
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